

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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GEORGE WEINTRAUB & SONS, INC.,

Petitioner,

-against-

FIESTA DISTRIBUTORS, INC.,

Respondent.  
-----X

**ORDER TO SHOW CAUSE**

07-CV-7995(JFK)

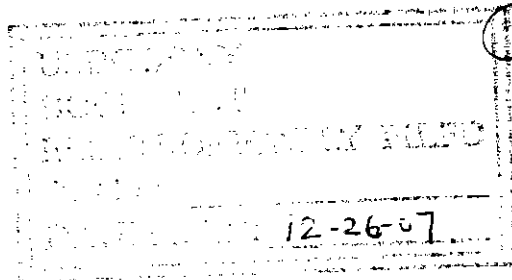
On the application of Petitioner for an Order requiring Respondent to show cause why a default judgment should not be entered against the Respondent for its failure to have appeared and/or responded to the Petition, and good cause appearing, and reason exists for issuing this Order ex parte and without notice; therefore

IT IS ORDERED, that Respondent, FIESTA DISTRIBUTORS, INC., appear before this Court in Courtroom 20C of the United States Courthouse located at 500 Pearl Street, in the City of New York, State of New York, on January 3, 2008 at 10AM then and there to show cause why judgment should not be entered as set forth in the application of the Petitioner, GEORGE WEINTRAUB & SONS, INC.

IT IS FURTHER ORDERED, that copies of this Order, the application of the Petitioner and the Affidavit of Lawrence Fechner filed therewith, be served on Respondent, FIESTA DISTRIBUTORS, INC., by serving the Secretary of State of Texas on or before December 31, 2007 and that such service shall constitute notice hereof.

December 24, 2007

John F. Keenan  
U.S.D.J.



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
GEORGE WEINTRAUB & SONS, INC.,

Petitioner,

**AFFIDAVIT FOR JUDGMENT  
BY DEFAULT**

-against-

07-CV-7995(JFK)

FIESTA DISTRIBUTORS, INC.,

Respondent.

-----X

STATE OF NEW YORK     )  
                                  )     ss.:  
COUNTY OF NEW YORK    )

Lawrence Fechner, being duly sworn, deposes and says:

1. I am a member of the Bar of this Court and am associated with the firm of Jaffe, Ross & Light LLP, attorneys for Petitioner in the above-entitled action and I am familiar with all the facts and circumstances in this action.

2. I make this Affidavit pursuant to Rule 55.2 of the Civil Rules for the Southern District of New York, as well as the Judge's Rule 1G(2) in support of Petitioner's application for the entry of a default judgment against Respondent.

3. This is a proceeding to confirm an arbitration award dated April 10, 2007 in favor of the Petitioner against the Respondent.

4. Jurisdiction of the subject matter of this action is based on Title 9, United States Code, Section 9.

5. This action was commenced on September 12, 2007 by the filing of the Summons and Petition. A copy of the Summons and Petition was served on the Respondent on October 16,

2007, by service upon the Secretary of State of Texas and proof of service by the Special Process Server was filed. The Respondent has not answered the Petition and the time for the Respondent to answer the Petition has expired.

6. This action seeks judgment for the liquidated amount of \$628,513.13, plus interest in the amount of \$40,334.81 from April 1, 2007 at nine (9%) percent, no part of which has been paid. A Statement of Damages which includes interest through December 26, 2007 is annexed hereto.

7. The disbursements sought to be taxed have been made in this action or will necessarily be made herein.

8. Service on the Secretary of State of Texas is requested as the Respondent is no longer operating its business and the Secretary of State is authorized to accept service of process on its behalf.

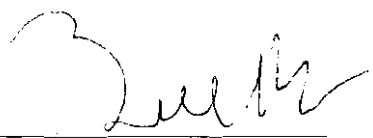
9. No prior application has been made for the relief requested herein except for a prior Request to Enter Default which is being withdrawn.

WHEREFORE, Petitioner requests the entry of Default and the entry of the annexed Judgment against Respondent.

Dated: New York, New York  
December 26, 2007

  
Lawrence Fechner

Sworn to before me this 26  
day of December, 2007

  
\_\_\_\_\_  
Notary Public

**BILL S. LIGHT**  
Notary Public, State Of New York  
No. 02LI4923207  
Qualified In New York County  
Commission Expires Feb. 16, 2008

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
GEORGE WEINTRAUB & SONS, INC.,

Petitioner,

**STATEMENT OF DAMAGES**

-against-

07-CV-7995(JFK)

FIESTA DISTRIBUTORS, INC.,

Respondent.

-----X

Principal amount sued for .....\$628,513.13

Interest at 9% from April 1, 2007 through December 26, 2007  
on \$605,853.00.....\$40,334.81

Costs and Disbursements:

Clerk's fee .....\$350.00  
Process Server fee for service .....\$326.00

Total (as of December 26, 2007) .....\$669,523.94